Then you have dealt with the present inadequacy in the inspection of courts by superior officers. I agree with you in the view that these inspections should be more frequent and intensive. The present law does not empower the High Court to depute one of their number to make inspections. That deputation requires the sanction of Government and this defeats the very purpose of the inspection. It is in contemplation to amend the High Court Regulation so as to enable the High Court to depute one of their judges to make surprise inspections.

In regard to copies of revenue records, I am not aware of any confidential circular which directs that copies of revenue records should not be given. As a rule, copies of all revenue records should be given, whether they are in favour of, or against, Government; they are public records and everybody is entitled to get copies of them. The draft rules in regard to the granting of copies enunciate this principle clearly.

In regard to non-compliance with the provisions of the Criminal Procedure Code in the matter of reading out depositions, the defect pointed out by you is a serious one, if it exists so largely. I shall impress upon all the District Magistrates the imperative duty on the part of the Magistrates themselves to read out the depositions in open courts before the deponents are asked to sign them. This is done in Sessions Courts and should also be done in all courts.

You then refer to the special favour shown by Magistrates to the prosecution in departmental cases. You have not quoted any specific instances and I am afraid that the charge is unfounded. You would be surprised if I say that the percentage of convictions secured in Police cases in 1096 is 47. You have also not quoted any instance of the Police Commissioner or any other Head of a Department having tried to influence the Magistrates or of the Government having tried to influence the Magistrates. I have not come across any instance in which the Head of a Department has reported against a Magistrate or blamed him for deciding cases in a particular way. There are a few instances in which Heads of Departments have said that the decisions in particular cases were wrong, and suggested that the Head Sirkar Vakil be asked to prefer an appeal. That is all.

In regard to punishments, there is the right of appeal. There may be vagaries on the part of some Magistrates. Some do blunder. There is the right of appeal and there are other ways of redressing such matters. I know there are certain Magistrates who do commit very glaring and stupid errors. That is one reason why I want to change the system of recruitment of Magistrates.

You have next complained about the delay in the execution of processes. You suggest that the Magistrates should be given some powers over the Police. I knew Mr. Pitt when I was a District Magistrate in British India. This is one of those matters in which he is very strict over his subordinates. What he says is: "Let the Magistrate complain to the District Superintendent of Police or let him write to the District Magistrate and let the latter write to me. I shall go into the matter at once and punish the man responsible". This is the attitude of the Commissioner of Police in regard to this matter. You cannot give the Magistrates administrative control over the Police. Duality of control will never do. There is nothing to prevent the Magistrate from complaining.

As regards Section 70 of the Police Regulation, I cannot give a reply offhand. All that I can say is that your remarks will be considered.

33. Some grievances of the litigant public.

Mr. C. P. Kochukunju Pillai (Member, Kottarakara Taluk), in ventilating the grievances of the litigant public, represented that the High Court Circular requiring Munsiffs to dispose of 40 contested suits in a month should be modified, because the Munsiffs, after disposing of 7 or 8 cases, got through the remaining cases hurriedly, so as to make up the specified minimum, and this resulted in considerable hardship to the litigant public. Secondly, in regard to the attachment of immovable properties, the law prescribed the production of

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copies of revenue records. Before the Settlement it was enough to produce a copy of the entry in the *tandaper*, but none of the Civil Courts insisted on the production of *chittas* from the Taluk offices. The Taluk officers on application for copies of *chittas* granted copies of *chittas* for all the properties borne on the name of the judgment-debtor, containing many more survey numbers than those covered by the application. This resulted in needless loss to the parties. The Member, therefore, prayed that the Taluk officers might be instructed to issue copies of *chittas* relating to the survey numbers of the properties in respect of which alone the application was made. Thirdly, the Member suggested that a circular be issued by the High Court declaring that it would be enough to produce copies of the entries in the Settlement Register for the execution of decrees in civil courts. The Member next complained that *nirak* rates were fixed on enquiries made by daffadars and peons of Taluk offices and that those enquiries were in most cases unreliable. It was prayed that responsible officers might be deputed for fixing *nirak* rates. Another representation of the Member was that defendants in civil suits tried to prolong the pendency of suits as far as possible in collusion with process servers, thus causing unnecessary loss to plaintiffs who received only 6 per cent interest on decreed amounts and costs. The Member prayed that interest at the rate of 12 per cent might be ordered to be paid. Lastly, the Member pointed out that in the receipts given by the Anchal Department dates were not legibly stamped and he prayed for instructions being issued to the Department to see that the defect was removed in future.

Dewan's reply.—With regard to the *chitta*, if you want only copy of one entry of that record, there is no justification at all for the Taluk authorities insisting on your taking a copy of the whole *chitta*. If the practice referred to exists, it will be stopped, and I shall issue the necessary instructions. Nor do I see any necessity for the production of certificates from courts for obtaining copies of, or extracts from, the *chitta*, which is a public and not a confidential document. I shall examine this question also. In regard to grant of copies of correspondence, there is a good deal of misapprehension which I want to remove in the new rules. Statements made by parties and the decisions of officers should be open to interested parties, while letters from the Tahsildars to the Peishkars and from the Peishkars to the Revenue Commissioner should be considered to be confidential documents not open to the public. But copies of statements of parties and accounts should be granted without delay and without objection.

As regards the question of interest I shall consult the High Court.

In regard to Anchal receipts, I am sure that the Anchal Superintendent, Mr. Venkata Row, will see to it that the date stamp is affixed legibly on the receipts. In the matter of *nirak* I admit that incorrect *nirak* is productive of evil; over and above this, in the interests of statistics, correct *nirak* is necessary. I have already issued instructions to the effect that the *nirak* should be prepared by responsible officers. I have also introduced a counter-check between the *nirak* of the revenue officers and the one furnished by the police officers. If there is any difference between the two, the explanations of the officers are called for and differences are reconciled before the figures are accepted.

Mr. Narayanaru Krishnaru (Member, Jenmi, Trivandrum Division) represented that, with a view to avoid unnecessary adjournments of cases at the request of the defendants on the ground that copies of plaints had not been obtained by them, a copy of the plaint might advantageously be ordered to be sent to the defendants with the process in each case. He also suggested that Civil Circular No. 14 of 1082 *in re* service of summons with the attestation of the Proverthikar or a person of equal status should be enforced, that the High Court's proceedings dated the 25th Makaram 1085 published in the Civil Courts Guide, *in re* service of processes through peons should be rigorously given effect to and that the neglect of the process-servers in the matter should be severely noticed. The Member further suggested that the number of process peons should be increased by 50 per cent as also their pay; that the enhanced process fees would amply provide for such a legitimate expenditure, that 12 per cent interest should

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be allowed for the decreed amount and costs, irrespective of the question whether the interest exceeded 50 per cent of the principal, and that parties should be made to abide by the contract they had entered into in regard to the rate of interest, and that an order should be issued to the Tahsildars to see that the *nirak* rates were fixed after proper investigation through reliable merchants. The Member complained that the defendants were not given sufficient time for putting in written statements as laid down in Circular No. 18 of 1059 which provided a period of 15 days in civil cases and of 7 days in small cause cases for the purpose before the date fixed in the summons for answering the plaint and that one or two adjournments should be allowed for the putting in of written statements. He also said that issues should be settled soon after written statements were put in, the provisions of Circular No. 23 of 1051 on the subject being strictly enforced. He also said that all the witnesses present should be examined the same day and their attendance marked, the summonses to the witnesses being issued sufficiently early. The mileage and batta for commissioners should be definitely fixed and only qualified men should be appointed as commissioners. Receipts should be given to the parties by the head clerk of each court for the court-fee stamps affixed on petitions, etc., presented to the court. The original documents presented to the courts should be returned to the parties soon after true copies thereof were taken. Courts should be directed to refer to the Settlement Register and not insist upon the production of copies of *chittas* in Devaswom and Brahmaswom cases. Courts should also be directed to take notes of hearing and preserve them as a part of the records. The insistence on the disposal of 40 contested suits by a Munsiff in a month should be relaxed, as it tended to re-act adversely on the quality of the work of the Munsiff and increase remands of cases for re-trial.

The Member further stated that in small cause suits also costs should be allowed to the parties, and the decisions revised by the High Court, as in the case of calendar revisions by the High Court in criminal cases. He also prayed that small cause suits should be made appealable. The Member also added that decrees were not generally prepared and compared carefully. This led to many mistakes and the parties were being put to great loss and inconvenience. He, therefore, requested that for such mistakes the clerks responsible should be punished and made to pay for the loss.

Copies of judgments and decrees should be finished within the prescribed time—3 days for judgments and 18 days for decrees—as prescribed by the circulars on the subject now in force. A circular should also be issued fixing a day for the production of copying paper and for giving copies of records. With a view to avoid *ex parte* decisions, notices might be published in the Gazette or sent through Anchal if parties applied for the same. The records in *ex parte* cases should not be destroyed till after the lapse of 12 years. Encumbrance certificates should be issued from the Sub-Registry offices within three days by a particular clerk appointed therefor and Government should take up the responsibility for the accuracy of the entries made therein.

The Member then dwelt on the difficulties experienced in getting warrants issued to decree-debtors in time and in getting back the decree amounts remitted in Taluk offices, and complained that no well-regulated principle was observed in the valuation of properties involved in auction sale made by commissioners and requested for the issue of strict instructions to the courts in regard to these matters. He also said that Amins should be instructed to execute the decrees entrusted to them in all cases and their malpractices should be put down. The Member also represented that vakils should not be allowed to receive unexpended batta from courts.

As regards Village Panchayat Courts, the Member suggested that one of the judges should be present on all days to give receipts for money paid by parties and that a register should be maintained for plaints and petitions received with the attestation of the President or one of the judges.

Dewan's reply.—All the points dealt with by the Member are matters relating to rules or evasions of rules and the remedy lies in the hands of the High Court. All the remarks of the Member will be communicated to the High Court who will be

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requested to see how far these difficulties could be removed. The High Court will be asked to consider the Member's remarks in connection with the revision of the Civil Rules of Practice. In regard to *nirak*, orders have already been issued to see that the entries are checked by responsible officers.

34. Some suggestions for the better administration of justice in Munsiffs' Courts.

Mr. S. Nilakanta Aiyar (Member, Municipal Council, Attingal) represented that the circular of the High Court insisting on the disposal of 40 contested cases in a month by a Munsiff should be cancelled, as the officers in their eagerness to act up to the circular sacrificed quality for quantity. In order that the arrears in the Munsiffs' courts might be cleared off, the Member made the following suggestions:—

(1) that the territorial and pecuniary jurisdiction of the Panchayat courts be increased so as to relieve the Munsiffs of a large number of small cause suits; that the selection of judges to the Panchayat Courts should depend solely upon ability and character; and that at least in the administration of justice the principle of communal representation be not adhered to;

(2) that the status, pay and minimum qualifications of the head ministerial officers of the Munsiffs' Courts be increased;

(3) that a more thorough and frequent inspection of the Munsiffs' Courts be ordered;

(4) that the opinion expressed in the inspection notes and the quality of work turned out should be the guiding factors in the award of promotions;

(5) that stringent instructions be issued to the effect that preference should be given to old cases and that no case should be pending which is more than two years old; and

(6) that new Munsiffs' Courts be opened, if necessary.

The Member next pointed out that Civil Circular No. 65 as amended by Circular No. 7 of 81 required that encumbrance certificates for a period of 12 years should be produced by decree-holders for the sale of properties in execution of decrees. These certificates served no useful purpose and might be dispensed with.

In attaching and proclaiming immovable properties for sale, copies of revenue records should be produced. In order to save delay in the production of such records from taluk offices, a G. O. should be issued to all taluk offices to see that copies were granted without delay.

Civil Circular No. 37 of 1075 regarding the granting of copies of judicial proceedings in courts should be amended so as to allow all parties and practising lawyers to obtain copies thereof, irrespective of the question whether they have vakalats or not. Effective steps should be taken to see that processes are executed in time. The cost of bedding and clothing recovered from decree-holders being excessive and not uniform, the levy of this cost should be put a stop to immediately. Section 11 of the Court Fees Regulation, VI of 1087, allowed the refund of court fees paid under certain conditions. For instance, when a suit in appeal was compromised or when a suit was decided solely on the admission of the parties without any investigation, one-half of the fees paid might be refunded to the party who paid it. This Section should be so amended as to compel the court to refund one-half of the court fees in such cases.

Regarding the destruction of records under Section 2 of Regulation III of 1057, the periods fixed were arbitrary and it was desirable that the records should not be destroyed till 12 years after the execution.

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